

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Sandhu, et al. Confirmation No. 7624
Serial No. 10/815,428 Examiner: Gregory W. Adams
Filed: March 31, 2004 Group Art Unit: 3652
For: ROBOTIC HAND WITH MULTI-WAFER END EFFECTOR
Date: July 17, 2006

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Commissioner for Patents
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**APPELLANT'S BRIEF
UNDER 37 C.F.R. § 41.37**

This Appeal Brief is in furtherance of the Appeal Brief filed on April 3, 2006 and the Notification of Non-Compliant Appeal Brief mailed on June 16, 2006. Appeal is taken from the Examiner's Office Action mailed November 3, 2005, finally rejecting claims 36-45 in the instant application.

Exhibit A of the Appeal Brief filed on April 3, 2006 has been withdrawn as an attachment, thus, obviating the rejection cited in the Notification.

The headings titled "Evidence Appendix" and "Related Proceedings Appendix" were properly noted as Sections IX and II, respectively, in Appellant's Appeal Brief dated April 3, 2006 and in its current amended Appeal Brief.

The fee required under §41.20(b)(2) was filed with Appellant's Appeal Brief dated April 3, 2006.

This Brief contains these items under the following headings, and in the order set forth below.

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I. REAL PARTY IN INTEREST

37 CFR § 41.37(c)(1)(i)

The real party in interest in this appeal is Synetics Solutions, Inc., the assignee of the above-referenced patent application.

II. RELATED APPEALS AND INTERFERENCES

37 CFR § 41.37(c)(1)(ii)

There are no other appeals or interferences known to Appellant, the Appellant's representative, or assignee that will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

37 CFR § 41.37(c)(1)(iii)

- 1. Claims presented: 1-45
- 2. Claims rejected: 36-45
- 3. Claims allowed or confirmed: NONE
- 4. Claims withdrawn: NONE
- 5. Claims objected to: NONE
- 6. Claims cancelled: 1-35

All the rejected claims, Claims 36-45, are being appealed. The appealed claims are eligible for appeal, having been finally rejected.

IV. STATUS OF AMENDMENTS

37 CFR § 41.37(c)(1)(iv)

Subsequent to the last Office Action mailed on November 3, 2005, which contained a Final Rejection of the appealed claims, no further amendments have been filed.

V. SUMMARY OF CLAIMED SUBJECT MATTER

37 CFR § 41.37(e)(1)(v)

The claims in the patent are directed to a wafer handling device, and more specifically, to a robotic hand adapted to grasp and move a plurality of wafers simultaneously.

Claim 36 is a method for moving a plurality of wafers using a robotic hand fitted with a plurality of end effectors with blades that mechanically grasp the wafers to secure each wafer to a corresponding blade. The robotic hand is then moved to a destination and the wafers released.

There is one independent claim, 36, involved in this appeal.

A. Independent Claim 36

Claim Language	Support in Specification/Figures
<i>A method for moving a plurality of wafers, comprising:</i>	
<i>positioning a plurality of end-effectors of a robotic hand adjacent an opening of a first wafer receptacle having a plurality of wafers arrayed therein, wherein the plurality of end-effectors also include a plurality of blades;</i>	Method step described in specification, page 5, lines 1-3. <ul style="list-style-type: none">• End-effectors (30) FIG. 2• Robotic hand (20) FIG. 2• Opening (spec., page 6, line 3)• Wafers (W) FIG. 5• Blades (32) FIG. 3
<i>inserting the hand into the first wafer receptacle;</i>	Method step described in spec., page 5, line 4
<i>mechanically grasping a selected number of wafers by a corresponding number of blades;</i>	Method step described in spec., page 5, lines 4-7 and in FIG. 5.
<i>removing the hand from the first wafer receptacle;</i>	Method step described in spec., page 5, lines 8-9

Claim Language	Support in Specification/Figures
<i>positioning the hand adjacent an opening of a second wafer receptacle;</i>	Method step described in spec., page 5, lines 10-11
<i>inserting the hand into the second wafer receptacle; and</i>	Method step described in spec., page 5, line 11
<i>releasing the selected number of wafers into the second wafer receptacle.</i>	Method step described in spec., page 5, lines 12-13

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

37 CFR § 41.37(c)(1)(vi)

- A. Claims 36-39 and 42-45 stand rejected under 35 U.S.C. §102(b) as being anticipated by Cameron, et al. (WO 00/02803).
- B. Claims 40 and 41 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Cameron, et al., as applied to Claim 36, and further in view of Bacchi, et al. (U.S. Patent No. 6,275,748).

VII. ARGUMENT

37 CFR § 41.37(c)(1)(vii)

The general issue is whether claims 36-45 are unpatentable under 35 U.S.C. §§ 102(b) and 103(a), in view of the prior art of record. Briefly, the specific issues can be stated as follows:

- A. In making the §102(b) rejection under Cameron, the Patent Office has given an unreasonably expansive definition to the claim term *mechanically grasping* that runs counter to a clear definition accorded within the specification, counter to the definition accorded in the wafer transport and chucking arts, and in violation of established case law.
- B. The combination of Cameron and Bacchi fails to teach all elements of the claims sufficient to make a *prima facie* case in support of a §103(a) rejection. That is, in addition to the failure of Cameron to disclose a method for moving a plurality of wafers by mechanically grasping the wafers, Bacchi fails to disclose detection of wafer contact pad displacement by detecting the position of the active contact point.

These issues will be divided into respective subsections and will address each of the grounds for rejection separately.

A. *Cameron does not teach the step of “mechanically grasping” according to a reasonably expansive definition of the claim 36 limitation.*

Case law is fairly specific on how claim language is to be interpreted during prosecution. “Words in a claim are generally given their ordinary and accustomed meaning unless the inventor chooses to be his own lexicographer in the specification.” *Lantech, Inc. v. Keip Mach. Co.*, 32 F.3d 542, 547, 31 USPQ2d 1666, 1670 (Fed. Cir. 1994). “In examining a patent claim, the PTO must apply the broadest reasonable meaning to the claim language, taking into account any definitions presented in the specification.” *In re Yamamoto*, 740 F.2d 1569, 1571, 222 USPQ 934, 936 (Fed. Cir. 1984). The Federal Circuit cautions, however, that the PTO is not to erroneously construe the claims (as was the case in *Baker Hughes*) where such construction was “beyond that which was reasonable in light of the totality of the written description.” *In re Baker Hughes, Inc.*, 215 F.3d 1297, 55 USPQ2d 1149 (Fed. Cir. 2000).

The Examiner has committed the same error as noted in the *Baker Hughes* case by applying a definition to “mechanically grasping” that is beyond that which is reasonable in light of the totality of the written description. To quote the Examiner from the Final Office Action:

Cameron discloses mechanical grasping encompassing more than vacuum, e.g. an end-effector, first arm, second end effector, robot body, wafer holders, and vacuum opening which grasps via drive motor and shaft 74, 76 and pivot mechanism 70.

The Examiner appears to state that because Cameron includes mechanical systems (e.g. drive motors), that this brings Cameron within the definition of “mechanically grasping” as called for within the claims. Appellants assert, however, that such a broadly construed definition runs counter to (1) a clear definition accorded within the specification, (2) to the definition accorded in the wafer transport and chucking arts, and (3) established case law detailing the proper interpretation of claim terms. The Examiner, in fact, provides no support why such an interpretation is reasonable in the mechanical arts, provides no support why such an interpretation is reasonable in view of the totality of the written description, and provides no support why such an interpretation is in accordance with the ordinary and accustomed meaning of the word “mechanically grasping.” In other words, the Examiner has failed to uphold the rigor proscribed by the Federal Circuit in *Lantech*, in *Yamamoto*, and in *Baker Hughes*.

Appellants next examine what is stated in the specification about the limitation “mechanically grasping.” Claim 36 recites the step of *mechanically grasping a selected number of wafers by a corresponding number of blades....* In describing the disclosed robotic hand, Applicant expressly states the following:

“mechanically” grasping refers to wafer engagement by other than by application of pneumatic force directly to a surface of a wafer. (Patent Application, page 3, lines 6-8)

The present invention acts to mechanically grasp the wafers using wafer engaging pads 34 as shown in the patent application that act to mechanically grasp peripheral portions of the wafer. That is, the wafer engaging pad moves relative to other pads (e.g., wafer rest pads 36) to clamp the wafer between the two so that a bias force is applied to edges of the wafer to keep it in place between the pads 34 and 36.

Cameron does not teach a mechanically [wafer] grasping step as set forth in claim 36. Instead, Cameron utilizes a vacuum wafer grasping mechanism wherein vacuum suction is used to secure the substrate to the paddle. (Cameron, page 5, lines 17-20, 26-28, 30-31, page 6, line 1) This type of pneumatic force is explicitly excluded from the definition of mechanically grasping as set forth in the present application.

The disclosure within the specification is consistent with a generally understood definition of “grasping” as to seize or hold firmly as if with the hand. (*The American Heritage Dictionary of the English Language. 3rd Edition* 1996) As the mechanical elements of Cameron perform no grasping function, they cannot be said to enable the mechanically grasping function within the Cameron. That is, excluding the pneumatic/vacuum force applied within the Cameron device, the wafers would simply fall out of the robotic drive arm if the arm were tipped or jostled because there are no elements that enact mechanical grasping. Consequently, the Patent Office fails to make a *prima facie* showing that the “mechanically grasping” step is disclosed within the Cameron reference sufficient to support a rejection of the claims under 35 USC §102(b).

Finally, the wafer handling and chucking arts recognizes several distinct methods for engaging a wafer during transport, including (1) gravity, (2) vacuum, (3) mechanical, (4) electrostatic, (5) electromagnetic, and (6) Bernoulli Chuck. The End-Effector Bible published by FJA Industries in 2000 (3rd ed.), is a reference in the wafer handling and chucking arts that cites these six types of “holding methods.” Two of the methods, mechanical and vacuum, are described as reproduced below:

Vacuum: Vacuum holding is a very common and popular method of temporarily security a part to an end-effector for a short period of time. Flat surfaces are desired for vacuum holding in order to facilitate a vacuum seal. Therefore, parts having flat surfaces are candidates for this method. Debris laden environments will prevent vacuum sealing and are not conducive to vacuum holding. While this method appears simple, the reader would be wise to investigate further. The details of this technology shall be discussed in full measure later in the text. The challenges of this technology are great and some of the implemented solutions are elegant.

Mechanical: Clamping a part by mechanical means is a practical solution for many applications. One such application is holding parts in a vacuum chamber where the vacuum method of holding can not be utilized. The mechanical end-effector is usually a complex design and demands a higher cost. The potential for damage to the part being handled can be high for fragile parts.

Using one method over the other is more than simply a matter of design choice since the complexities involved are quite different depending upon which holding method is chosen. Accordingly, vacuum retaining would not be considered equivalent to mechanical retaining as understood within the chucking arts.

The present invention is intended to address a method for using mechanical holding methods in order to address certain disadvantages of pneumatic systems such as the one disclosed in Cameron. Mechanical gripping is not found in Cameron. Instead, and as discussed above, a failure of the vacuum pressure in Cameron would allow the wafers to slide off of the pads 108 and out of the holder itself if the holder is tipped.

Furthermore, Appellants have determined that are two significant advantages to use mechanical grasping over vacuum grasping in wafer handling process that argue against equivalence.

First, mechanical grasping introduces less contamination. The vacuum end-effector relies on the end-effector surface area in contact with the wafer to produce a lateral (parallel to wafer surface) friction force. This contact area and the associated micro displacement (vibration, slippage) produce particles on the backside of the wafer. When wafers are processed in wet tanks (cleaning processes) the backside particles can migrate to the front side where the chips are located. These particles would cause failures and decrease manufacturing yields. On the other hand, edge grip end effectors have minimal contact area and thus minimal particles are produced.

Based on Appellants' measurements, an order-of-magnitude analysis shows that vacuum end effectors produce 10,000 particles and edge grip end effectors produce 10 particles per grip.

A second advantage of mechanical grasping over vacuum is that while edge grip end effectors have a known constant grip force based on the pneumatic force of the gripping actuator, vacuum end effectors grip (friction) force is less known or constant. The vacuum grip force is highly dependent on the surface roughness and the co-planarity of the end effector and wafer. The variability of the vacuum end effector grip force does not make the vacuum end effector a good candidate for multi-plane wafer motion. In addition, the vacuum end effector relies on the friction force between the end effector and wafer surface to produce a lateral (parallel to wafer surface) friction force. When the robot arm is accelerating in the horizontal plane with a horizontal wafer surface or when the robot arm is moving in the vertical plane with a vertical wafer surface, there are forces acting on the wafer may be greater than the lateral friction force, which could cause wafer slip and damage.

Since mechanical grasping is clearly distinguishable from vacuum grasping in the wafer handling process, and Cameron only teaches a vacuum wafer grasping mechanism, reconsideration by the Board and allowance of claims 36-39 and 42-44 are thus respectfully requested.

B. *The Combination of the Cameron and Bacchi references fail to teach each and every element of the claims sufficient to support a rejection under 35 USC §103(a)*

Claims 40 – 41 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Cameron in view of Bacchi, et al. (U.S. Patent No. 6,275,748; hereinafter “Bacchi”). Applicants respectfully disagree with the rejection.

Claim 40 recites that the step of “sensing the presence and position of wafer” comprises “detecting a displacement of a wafer contact pad when said wafer contact pad contacts a wafer peripheral zone.” Claim 41 recites that the optical sensing of wafer step comprises optically detecting a displacement of the wafer contact pad when said wafer contact pad contacts a wafer peripheral zone. Examiner alleges that Cameron discloses position and presence sensors and Bacchi discloses the step of sensing the wafer pad displacement.

Upon careful review of the prior art, it is clear that Cameron in view of Bacchi does not teach detection of wafer presence and position via wafer pad displacement as recited in claims 40-41.

The sensor in Cameron is noted on page 6, line 32 as an “object sensor 58” and is adapted to detect presence only. Furthermore, the Cameron sensor is associated with presence within the slots of a cassette (Cameron, p.6, ln. 33) as opposed to position on an end-effector as in the present invention where the displacement of a wafer contact pad is detected when the wafer contact pad contacts a wafer peripheral zone. (e.g., claim 40) Presence of the wafer within a particular slot of the Cameron device cassette is further provided by use of a “vacuum sensor” (Cameron, p. 7, lns. 9-26). Again, position is not determined as called for within the present claims. Accordingly, it would be inappropriate to read such a limitation within the Cameron reference.

The optical sensors disclosed in Bacchi are used to detect retracted, safe specimen loading/gripping and extended positions of the active contact point. (see, e.g., Bacchi, Col. 2, line 22-24) The active contact point is movable between a retracted wafer-loading position and an extended wafer-gripping position to urge the wafer against the distal rest pads so that the wafer is gripped only at its edge or within the exclusion zone to reduce contamination. (see, e.g., Bacchi, Col. 2, line 15-20). The active contact point disclosed in Bacchi does not perform wafer gripping functionality. Instead, Bacchi discloses that it is the proximal and distal rest pads that support and grip the wafer. (See, e.g., Bacchi, Col. 2, lines 10-15)

Again, and in contrast to the teachings in Bacchi, the wafer contact pad recited in claims 40-41 is structured to serve the wafer grasping function. (Patent Application, page 3, lines 17-18, page 2, line 26-29)

Since the active contact point disclosed in Bacchi serves a distinct function from that of the wafer contact pad recited in claim 40 and 41, detection of the positions of the active contact point is not the same as the detection of wafer contact pad displacement. Thus, Bacchi does not disclose detection of wafer contact pad displacement by detecting the position of the active contact point.

In neither Cameron or Bacchi, therefore, is there a suggestion to combine the optical detection of the active control points of Bacchi with wafer detection feature from Cameron.

Furthermore, there is no suggestion to use optical sensors to detect wafer pad displacement in Bacchi.

Care must be made when combining references.

The Federal Circuit has been consistent in reversing the PTO when a rejection is made on the basis of hindsight, that is when an Examiner rejects the application under 35 U.S.C. §103(a) grounds as obvious under a combination of two or more patents without any specific suggestion within the patents to combine the features. In re Rouffett, 47 USPQ2d 1453 (Fed. Cir. 1998), the Federal Circuit refused to uphold an obviousness rejection, even where skill in the art is high, absent the specific identification of principal, known to one of ordinary skill in the art that suggests the claimed combination.

The Federal Circuit reemphasized the care to be taken when combining prior art references in obviousness findings in Ecolochem v. Southern Cal. Edison, 56 USPQ2d 1065 (Fed. Cir. 2000), stating that such absence of evidence to combine prior art references “is defective as hindsight analysis.” The Federal Circuit held similarly in In re Kotzab, 55 USPQ2d 1313 (Fed. Cir. 2000), reversing the PTO and stating that, “[i]dentification of prior art statements that, in abstract, appear to suggest claimed limitation does not establish prima facie case of obviousness without finding as to specific understanding or principal within knowledge of skilled artisan that would have motivated one with no knowledge of the invention to make the combination in the manner claimed.”

Finally, the Federal Circuit has reaffirmed their view that the PTO used improper hindsight analysis to reject patent claims under §103(a) in the recent case of In re Lee, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002), stating that a specific suggestion in the prior art cited is required and not a simple citation to “common knowledge and common sense.” Lee includes a tour-de-force of case law directed to the issue of combining references including those as follows:

- “The factual inquiry whether to combine references must be thorough and searching. . . . It must be based on objective evidence of record. This precedent has been reinforced in myriad decisions, and cannot be dispensed with.” (Lee, 277 F.3d at 1343)

- “A showing of a suggestion, teaching, or motivation to combine the prior art references is an essential component of an obviousness holding.” (*quoting Brown & Williamson Tobacco Corp. v. Philip Morris, Inc.*, 229 F.3d 1120, 1124-25, 56 USPQ2d 1456, 1459 (Fed. Cir. 2000)
- “Our case law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis if rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references.” (*quoting C.R. Bard, Inc. v. M3 Systems, Inc.*, 157 F.3d 1340, 1352, 48 USPQ2d 1225, 1232 (Fed. Cir. 1998)
- “There must be some motivation, suggestion, or teaching of the desirability of making the specific combination that was made by the applicant.” (*quoting In re Dance*, 160 F.3d 1339, 1343, 48 USPQ2d 1635, 1637 (Fed. Cir. 1998)
- “Teachings of references can be combined *only* if there is some suggestion or incentive to do so.” (*quoting In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988) (emphasis in original)

The Patent Office has failed to display the rigor required by the Federal Circuit holdings in demonstrating a suggestion within the art that the cited prior art references should be combined.

VIII. CLAIMS APPENDIX **37 CFR § 41.37(c)(1)(viii)**

A copy of the claims involved in the appeal, Claims 36-45 are attached hereto as an appendix, entitled Claims Appendix.

IX. EVIDENCE APPENDIX **37 CFR § 41.37(c)(1)(ix)**

None. No evidence was submitted pursuant to 37 CFR §§ 1.130, 1.131 or 1.132 of this title, nor was any other evidence entered by the Examiner and relied upon by the Appellant in the appeal.

X. RELATED PROCEEDINGS APPENDIX
37 CFR § 41.37(c)(1)(x)

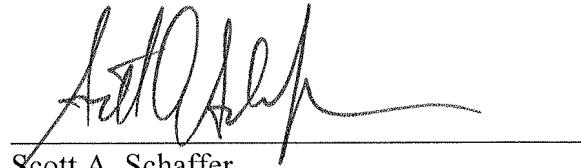
None. No related proceeding was identified pursuant to 37 CFR § 41.37(c)(1)(ii) of this section.

CONCLUSION

For the foregoing reasons, Appellant requests that the Board reverse the Examiner's rejections to Appellant's claims.

Respectfully submitted,

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VIII. CLAIMS APPENDIX
37 CFR § 41.37(c)(1)(viii)

The text of the claims on appeal, 36-45, are as follows:

36. A method for moving a plurality of wafers, comprising:
 - positioning a plurality of end-effectors of a robotic hand adjacent an opening of a first wafer receptacle having a plurality of wafers arrayed therein, wherein the plurality of end-effectors also include a plurality of blades;
 - inserting the hand into the first wafer receptacle;
 - mechanically grasping a selected number of wafers by a corresponding number of blades;
 - withdrawing the hand from the first wafer receptacle;
 - positioning the hand adjacent an opening of a second wafer receptacle;
 - inserting the hand into the second wafer receptacle; and
 - releasing the selected number of wafers into the second wafer receptacle.
37. The method of claim 36 wherein the selected number of wafers is one of one, two, three, four, or five wafers.
38. The method of claim 36, further comprising sensing the presence of the selected number of wafers on the plurality of end-effectors in the first wafer receptacle.
39. The method of claim 38 wherein sensing the presence and position of the plurality of wafers comprises sensing a wafer peripheral zone proximate the hand.
40. The method of claim 39 wherein sensing the presence and position of wafer comprises detecting a displacement of a wafer contact pad when said wafer contact pad contacts a wafer peripheral zone.

41. The method of claim 39 wherein optically sensing the wafer comprises optically detecting a displacement of a wafer contact pad when said wafer contact pad contacts a wafer peripheral zone.

42. The method of claim 38 wherein sensing the presence and position of the plurality of wafers comprises optically sensing a wafer peripheral zone of each wafer proximate the hand.

43. The method of claim 36 wherein mechanically grasping a selected number of wafers comprises mechanically grasping each wafer only at a peripheral zone thereof.

44. The method of claim 36 wherein releasing the selected number of wafers comprises arraying the wafers in the second wafer receptacle.

45. The method of claim 36 wherein the robotic hand is structured to retain one or more grasped wafers during multi-planar movement.